IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

CRP.No. 468 of 2007()

OS.411/2006 of MUNSIFF COURT,KAYAMKULAM
.....

REVN. PETITIONER/PLAINTIFF:

K. SUDHAKARAN,
AYKARATHU VADAKKATHIL,
PULLIKKANAKKU P.O.
KAYAMKULAM.

BY ADV. SRI.R.REJI

RESPONDENTS/DEFENDANTS:
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1. **MAHINDRA & MAHINDRA FINANCIAL SERVICe LTD.**
   2ND FLOOR, KALYANI TOWERS,
   DESHABHIMANI JUNCTION,
   KALOOR, KOCHIN.
   REPRESENTED BY THE AUTHORISED SIGNATORY.

2. **MAHINDRA & MAHINDRA FINANCIAL SERVice LTD.,**
   KAYAMKULAM BRANCH, REP. BY THE BRANCH MANAGER.

BY

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 05/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A. 1235 OF 2007
IN
C.R.P. NO.468 OF 2007

DISMISSED

5/6/07 **SD/- M.N. KRISHNAN, JUDGE.**

[True Copy]

P.A. TO JUDGE.

M.N. KRISHNAN, J.

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C.R.P. NO. 468 OF 2007

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Dated this the 5th day of June, 2007.

O R D E R

This C.R.P. is preferred against the order of the Munsiff, Kayamkulam in I.A.205/07 in O.S.411/06. The plaintiff in the suit namely revision petitioner had filed a suit for injunction to restrain the defendants in the suit from forcefully taking possession of the vehicle. There was a hire purchase agreement as per which the vehicle had been purchased by the plaintiff. It is submitted that the plaintiff is ready and willing to pay the actual amount that is due under the hire purchase agreement.

The defendants on appearance filed a petition that the suit is not maintainable for the reason that there is an arbitration clause in this matter. There is no dispute regarding the execution of the agreement. Clause 29 of the agreement specifically states that whenever there is a dispute between parties the matter has to be referred to an arbitrator. The contention of the defendants in the case is that the plaintiff can only invoke the arbitration clause and he cannot file a suit of this nature and pray an order of injunction.

The Court below rightly after construing the provisions of the agreement came to a conclusion that the dispute between the parties is with respect to the correctness of the amount due under the hire purchase agreement which squarely fall under clause 29 and therefore the remedy for the party is to approach the defendants for appointment of an arbitrator. The said order does not suffer from any infirmity or illegality.

The trial court has also held that the plaintiff is at liberty to file an application before petitioners to appoint an arbitrator for redressal of the grievance. So, I find that there is no ground to interfere with the said decision. But, in order to facilitate the revision petitioner to file an application for arbitration I feel that there must be a direction to the defendants in the case not to take any coercive steps for recovery of the vehicle and there is simultaneously a direction issued to the revision petitioner not to transfer the vehicle in favour of anybody else.

The revision petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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